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SECURITIES AND EXCHANGE COMMISSION  
[Release No. 34-74083; File No. SR-NYSEMKT-2015-01]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Sections 140 and 141 of The NYSE MKT Company Guide to Adopt A New Flat Annual Fee of \$5,000 for Listed Warrants

January 16, 2015.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on January 2, 2015, NYSE MKT LLC (the “Exchange” or “NYSE MKT”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 140 and 141 of the NYSE MKT Company Guide (the “Company Guide”) to adopt a new flat annual fee of \$5,000 for listed warrants with effect from January 1, 2015. The Exchange also proposes to amend Section 140 of the Company Guide to make clear that the initial fee waiver for securities transferring from another national securities exchange or dual listing on the Exchange are applicable to all categories of securities. The text of the proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Sections 140 and 141 of the Company Guide to adopt a new flat annual fee of \$5,000 for listed warrants with effect from January 1, 2015. The Exchange also proposes to amend Section 140 of the Company Guide to make clear that the initial fee waiver for securities transferring from another national securities exchange or dual listing on the Exchange are applicable to all categories of securities.

Currently, Section 140 of the Company Guide provides that listed warrants are subject to the same initial and annual fees as common stock. The Exchange proposes to eliminate the reference to the annual fees for warrants in Section 140 and to add a new subparagraph of Section 141 which will establish a flat annual fee for warrants of \$5,000 with effect from January 1, 2015. The Exchange notes that Section 105 of the Company Guide, which establishes initial listing standards for warrants, provides that warrants qualify for listing only if the common stock for which the warrants are exercisable are listed on the Exchange or another national securities exchange. Currently, the common stock into which all warrants listed on the Exchange are exercisable is listed either on the Exchange itself or on the NYSE and (while Section 105 would

permit the listing of warrants exercisable for common stock listed on any national securities exchange, including those unaffiliated to NYSE MKT) the Exchange anticipates this will generally remain the case going forward. NYSE Regulation is responsible for all oversight of the compliance with applicable listing rules by issuers and securities listed on both the Exchange and the NYSE. Almost all regulatory obligations imposed upon listed issuers in connection with a warrant listing, including with respect director independence, also arise in connection with the issuer's common stock listing. Accordingly, because NYSE Regulation is already conducting almost all of the regulatory oversight necessary in connection with a warrant listing because the issuers listing warrants on the Exchange also have their common stock listed on the Exchange or the NYSE, the incremental resources devoted to the regulation of the listed warrants are very limited and the Exchange therefore believes it is reasonable to charge only a modest fixed annual fee for the listing of warrants.

Section 140 of the Company Guide provides a waiver of the initial listing fees to companies transferring their securities from another national securities exchange or dual listing their securities on the Exchange that remain listed on another national securities exchange. The Exchange has always interpreted this waiver as applying to all categories of securities listed on the Exchange and not just to common stocks or common stock equivalents. The Exchange proposes to amend the language of the rule to make this consistent interpretation more transparent.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4)<sup>5</sup> of the Act, in particular, in

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<sup>4</sup> 15 U.S.C. 78f(b).

that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5)<sup>6</sup> of the Act in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that amending Section 141 of the Company Guide to provide a modest flat annual fee for listed warrants is reasonable because the resulting fees would better reflect the Exchange's costs related to such listing. In this regard, the Exchange notes that all issuers currently listing warrants on the Exchange also list their common stock on the Exchange itself or on the NYSE. The Exchange further notes that the majority of costs associated with providing services to these issuers as well as the Exchange's regulatory burden arise as a result of their common stock listing and there is only a minimal incremental cost as a result of their warrant listings. Accordingly, the Exchange believes it is appropriate to charge a modest flat fee for warrant listings. The Exchange further believes that the proposed annual fees are equitably allocated because all issuers will be subject to the same \$5,000. The amendment to Section 140 to clarify the treatment for initial listing fee purposes of warrants transferred from another national securities exchange or dual listed on the Exchange simply makes the existing interpretation of the rule more transparent and does not affect in any way the amount of fees collected.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

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<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

proposed rule change is designed to ensure that the fees charged by the Exchange accurately reflect the services provided and benefits realized by listed companies. The proposed fee increases will apply to all issuers listed on the Exchange, therefore they will be equitably allocated amongst all issuers and will not be unfairly discriminatory towards an individual issuer or class of issuers. Further, because issuers have the option to list their securities on a different national securities exchange, the Exchange does not believe that the proposed fee changes impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>7</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>9</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

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<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2015-01 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2015-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the

Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2015-01 and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Brent J. Fields,  
Secretary.

[FR Doc. 2015-01069 Filed 01/22/2015 at 8:45 am;  
Publication Date: 01/23/2015]

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<sup>10</sup> 17 CFR 200.30-3(a)(12).